

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
) 4:07CR3005
v.)
)
RICHARD FLEMING,)
)
Defendant.)
)

MEMORANDUM AND ORDER

The court has reconsidered, *sua sponte*, the earlier decision to allow the defendant to proceed with counsel appointed pursuant to the Criminal Justice Act, 18 U.S.C. 3006A. At my request the defendant has provided a good deal of information; in addition, the government has also provided much information. The two submissions are not always in agreement, but sufficiently so that I can draw some conclusions with confidence in their accuracy.

Defendant is a physician, board certified in internal medicine. He has additional training and experience in nuclear cardiology. He has been admitted to practice privileges in numerous clinics, institutes, and hospitals. He has received many awards and recognitions, and has been on the adjunct teaching faculty at the University of Nebraska Medical Center. He has written numerous articles, six chapters of others' medical texts, and three books. He is widely published in medical journals. He is employed, though the exact amount of his expected income is uncertain; there is nothing, however, to indicate that his license to practice medicine is in any way jeopardized by the existence of this--unproved--indictment. He has significant assets and significant indebtedness, and he may be facing liquidating some assets and/or restructuring his indebtedness.

He has been represented in the pre-indictment stages of this case, but he claims he is unable to afford the costs of representation now, suggesting that he has been advised such representation would require a retainer of \$60,000 with a total fee estimate of up to \$200,000. Having reviewed the voluminous documentation before me concerning his assets, liabilities, income, and expenses, I am not persuaded that the defendant cannot pay such a fee, over time.

IT THEREFORE HEREBY IS ORDERED,

1. The appointment of the Federal Public Defender to represent the defendant is terminated, effective upon the entry of an appearance by substitute, retained counsel.
2. The defendant is given until April 6, 2007 to obtain the services of substitute counsel and have that attorney file an appearance in this case, or, alternatively, to inform the court, by pleading, that he will represent himself in this case.

DATED this 21st day of March, 2007.

BY THE COURT:

s/ *David L. Piester*
David L. Piester
United States Magistrate Judge